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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/822,549
Filing Date: April 12, 2004
Appellant(s): HOWELL, FRANK A.

MAILED

SEP 13 2006

Technology Center 2600 (3600)

Maurice E. Gauthier
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03 August 2006 appealing from the Office
action mailed 4 April 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

Reference character "43" should be "42" in the third line of the second paragraph of this section because the underside is identified by reference character "42" and there is not reference character "43".

"Figure 12" should be "Figure 13" in the first line of the fourth paragraph of this section because the third embodiment is illustrated in Figure 13.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. Claims 8-14 being rejected under 35 U.S.C. 102(b) as being anticipated by Scholey (US 5,970,585).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:
Claims 1 and 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dillin (US 541,729).

A buckle (A) is used with a flexible strap (E) having a substantially uniform width and thickness and end tab (M) of increased thickness (Figs. 1 and 3). The buckle captures and releasably retains the end tab (Figs. 1 and 3). The buckle comprises a base (lower surface containing slots B and D and recess K as seen in Figs. 3 and 4), parallel side walls (parallel walls perpendicular to the base that form head C as seen in Figs. 2 and 4), first slots (B,D) and flanges (upper surface the head C that is perpendicular to the side walls as seen in Fig. 4). The side walls extend upwardly to cooperate therewith in defining an open-ended receiving channel (F) having an entry end (right end of H as shown in Figs. 2 and 3) and an exit end (left end of H as shown in Figs. 2 and 3). The first slots extend transversely across the base (Figs. 1-4). The

buckle is attached to the strap by weaving the strap into and out of the channel through the first slots (Figs. 1 and 3). The flanges are spaced vertically from the base (Figs. 3 and 4) and extend inwardly in cantilever fashion from the side walls to define an open-ended second slot (between head members C) communicating with and extending along the length of the receiving channel (Figs. 1-4). The slot allows longitudinal pinching (the slot as shown in Figure 4 will pinch E when being inserted into the channel since its dimension smaller than the dimension of the channel F) and lateral insertion of the strap into the receiving channel. The flanges have undersides receiving the end tab in the receiving channel via the strap entry end and to releasably wedge the end tab in and prevent withdrawal of the end tab from the receiving channel via the exit end (Page 1, lines 47-75 and Figs. 1 and 3).

A buckle (A) is used with a flexible strap (E) having a substantially uniform width and thickness and end tab (M) of increased thickness (Figs. 1 and 3). The buckle captures and releasably retains the end tab (Figs. 1 and 3). The buckle comprises a base (lower surface containing slots B and D and recess K as seen in Figs. 3 and 4), parallel side walls (parallel walls perpendicular to the base that form head C as seen in Figs. 2 and 4) and flanges (upper surface the head C that is perpendicular to the side walls as seen in Fig. 4). The side walls extend upwardly from the base to cooperate therewith in defining an open-ended receiving channel (F) (Figs. 1-4). The flanges are spaced vertically from the base and extend inwardly from the side walls to define an open-ended slot (between head members C) communicating with the receiving channel (Figs. 1-4). The flanges have converging sections (portion of H that are defined by the

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flange) leading from one end of the slot to an intermediate location along the length thereof (Fig. 2). The slot allows longitudinal pinching (the slot as shown in Figure 4 will pinch E when being inserted into the channel since its dimension smaller than the dimension of the channel F) and lateral insertion of the strap into the receiving channel (Figs. 1-4). The converging sections and the flanges have undersides coacting with the base in releasably wedging the end tab in the receiving channel (Page 1, lines 47-75 and Figs. 1 and 3).

A buckle (A) is used with a flexible strap (E) having a substantially uniform width and thickness and end tab (M) of increased thickness (Figs. 1 and 3). The buckle captures and releasably retains the end tab (Figs. 1 and 3). The buckle comprises a base (lower surface containing slots B and D and recess K as seen in Figs. 3 and), parallel side walls (parallel walls perpendicular to the base that form head C as seen in Figs. 2 and 4) and flanges (upper surface the head C that is perpendicular to the side walls as seen in Fig. 4). The side walls extend upwardly from and cooperating with the base to define an open-ended receiving channel (F) having an entry end (right end of H as shown in Figs. 2 and 3) and an exit end (left end of H as shown in Figs. 2 and 3). The flanges are spaced vertically from the base and extend inwardly from the side walls to define an open-ended slot (between head members C) communicating with the receiving channel (Figs. 1-4). The flanges have converging sections (portion of H that are defined by the flange) leading from one end of the slot to an intermediate location along the length thereof (Figs. 1-4). The slot allows longitudinal pinching (the slot as shown in Figure 4 will pinch E when being inserted into the channel since its dimension

smaller than the dimension of the channel F) and lateral insertion of the strap into the receiving channel (Figs. 1-4). The converging section and the flanges have undersides coacting with the base in releasably wedging the end tab in the receiving channel (Page 1, lines 47-75 and Figs. 1 and 3).

The flanges have converging sections (portion of H that are defined by the flange) leading from a maximum width of the slot at the entry end of the receiving channel to a reduced width of the slot at an intermediate location along the length of the channel (Figs. 1-4).

The end tab defines a shoulder extending transversely across the width of the strap and the undersides of the flanges define stop surfaces engageable with the shoulder (Figs. 1 and 3).

The undersides of the flanges further define jamming surfaces (H) sloping downwardly towards the stop surfaces (Figs. 1-4).

The base is secured to a section of the strap (Figs. 1 and 3).

The base is formed as an integral part of a carrier structure (L after it is fastened).

Claims 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholey (US 5,970,585).

A buckle (16) is used with a flexible strap (18,20) having a substantially uniform width and thickness and end tab of increased thickness (Fig. 2). The buckle captures and releasably retains the end tab (Figs. 1 and 2). The buckle comprises a base (lower surface as seen in Fig. 2), parallel side walls (upper surface as seen in Fig. 2) and

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flanges (24). The side walls extend upwardly from the base to cooperate therewith in defining an open-ended receiving channel (between 24). The flanges are spaced vertically from the base and extend inwardly from the side walls to define an open-ended slot communicating with the receiving channel (Fig. 2). The flanges have converging sections leading from one end of the slot to an intermediate location along the length thereof (Fig. 2). The slot allows longitudinal pinching and lateral insertion of the strap into the receiving channel (Fig. 2). The converging sections and the flanges have undersides coacting with the base in releasably wedging the end tab in the receiving channel (Fig. 2).

A buckle (16) is used with a flexible strap (18,20) having a substantially uniform width and thickness and end tab of increased thickness (Fig. 2). The buckle captures and releasably retains the end tab (Fig. 2). The buckle comprises a base (lower surface as seen in Fig. 2), parallel side walls (upper surface as seen in Fig. 2) and flanges (24). The side walls extend upwardly from and cooperating with the base to define an open-ended receiving channel having an entry end (left end) and an exit end (right end). The flanges are spaced vertically from the base and extend inwardly from the side walls to define an open-ended slot communicating with the receiving channel (Fig. 2). The flanges have converging sections leading from one end of the slot to an intermediate location along the length thereof (Fig. 2). The slot allows longitudinal pinching and lateral insertion of the strap into the receiving channel (Fig. 2). The converging section and the flanges have undersides coacting with the base in releasably wedging the end tab in the receiving channel (Fig. 2).

The flanges have converging sections leading from a maximum width of the slot at the entry end of the receiving channel to a reduced width of the slot at an intermediate location along the length of the channel (Fig. 2).

The end tab defines a shoulder (22) extending transversely across the width of the strap and the undersides of the flanges define stop surfaces engageable with the shoulder (Fig. 2).

The undersides of the flanges further define jamming surfaces sloping downwardly towards the stop surfaces (Fig. 2).

The base is secured to a section of the strap (Figs. 1 and 2).

(10) Response to Argument

A. Claims 1 and 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dillin (US Patent No. 541,729).

Claim 1

a) The Applicant argues that Dillin fails to disclose that the second slot is "configured and dimensioned to accommodate longitudinal pinching and lateral insertion" of the cord E into the slot F and will not pinch the cord since the slot is "of substantially the same diameter as the flexible tie or cord E". The Examiner fails to agree with this argument because reference character F is not the slot. Reference character F is used to identify the channel and not the slot in accordance with lines 34 to 39 of page 1 that recites "The throat D communicates with the recess F in the head C, said recess being substantially the same diameter as the flexible tie or cord E, and having its base rounded as at G, the outer extremity of the recess having the counterbore H, as seen in

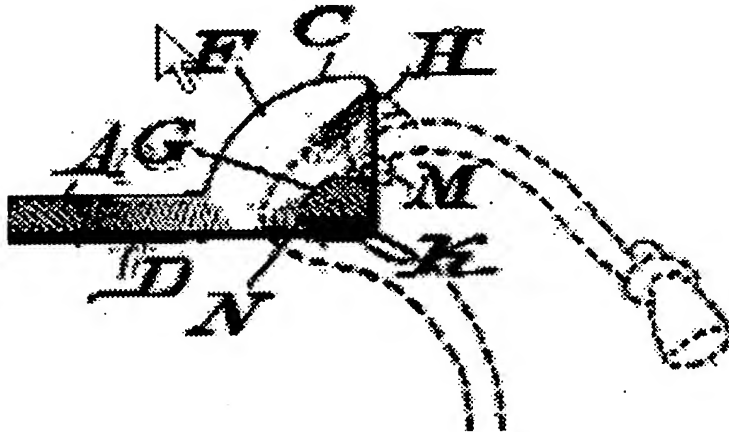
Fig. 4". Therefore, Dillin does meet the claim limitation since the slot that is defined by the two free ends of the head C as seen in Figure 4 has a smaller dimension than the recess F that has "substantially the same diameter as the flexible tie or cord E".

b) The next argument presented by the Applicant is that undersides of the flanges are not configured to "releasably wedge" the knot M since the cord is "prevented from slipping outwardly by the bight N." This argument fails to persuade. The Examiner acknowledges that the disclosure of Dillin uses a bight N to keep the cord secured.

However, Dillin also discloses that underside surfaces forming part of a counterbore are necessary in order to prevent accidental release of the cord. The underside surfaces of the flanges next to the slot define a portion of the counterbore H provided in the channel flanges as explained above in the rejection. These undersurfaces are required to keep the end tab (M) within the channel F. This is also evidenced by the fact description of how the strap or cord is inserted into the buckle as described in lines 51-56 that recites "the other end is passed through the throat D, and then pulled to the right until the knot or swell M is the position seen in Figs. 1 and 3, at which point it will be firmly held, as is evident." As can be seen below in an enlarged view of Figure 3, the undersides of the flanges engage the top portion of the end tab, to keep the end tab within the channel and prevent accidental release of the strap or cord. This is also supported by lines 68-75 that describe how the cord can be released from the buckle and recites "to unfasten the tie, it is only necessary to draw the knot M upwardly out of engagement with the counter-bore and pull it toward the throat D". Therefore, Dillin requires the bight N in combination with

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the end tab (M) being disposed within the channel to keep the strap secured to the buckle proving that the buckle of Dillin does meet the limitation of claim 1.



Claim 8

The same response to the arguments of claim 1 apply to claim 8.

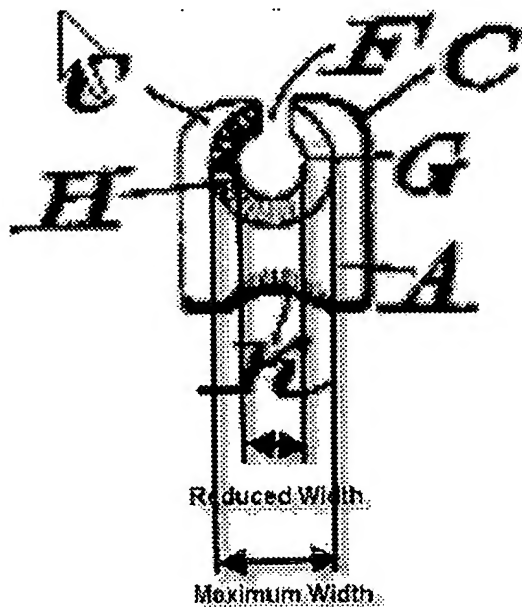
Claim 9

The Applicant's argument is that Dillin fails to disclose "downwardly slopping jamming surfaces configured to frictionally retain" the end tab M in the channel. This argument fails to persuade because the portion of the flanges that define the counterbore H will have a slopping jamming surface as shown above in an enlarged section of Figure 3 since the counterbore H has slopping surfaces extending from the entry end toward the exit end and the upper surface of the slopping surface makes contact with the end tab to frictionally retain the end tab.

Claim 10

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The Applicant also argues that Dillin fails to disclose "converging sections leading from a maximum width of said slot at the entry end of said receiving channel to a reduced width of said slot at an intermediate location along the length of said channel" since Dillin discloses that the slot has a constant width. The Examiner fails to be persuaded by this argument because the claim only recite a width but it does not provide any details on where the width is measured. The slot is defined by the two flanges of the head C having a top surface exposed to the outer surface of the head and a bottom surface defining the channel. The Examiner acknowledges that the top surfaces of the flanges define a constant width therebetween, however, the bottom surface of the flanges also define a width of the slot. The width of the slot at the bottom surface of the flanges varies since converging sections defined by the slope surfaces of the counterbore H vary from the entry end toward the exit end as shown below in an enlarged view of Figure 4 of Dillin.



Therefore, Dillin does meet the claim limitations because the width of the slot defined at the bottom surface of the flanges varies from a maximum width of the slot at the entry end (beginning of the counterbore H) of the receiving channel to a reduced width of the slot at an intermediate location (end of the counterbore H located between the entry end and the bight N) along the length of the channel.

Claim 11

The argument presented by the Applicant is that Dillin fails to disclose that the flanges have undersides with stop surfaces engageable with a shoulder of the end tab M. This argument fails to persuade. The claim only requires stop surfaces that engage a shoulder of the end tab. As can be seen above in the enlarged view of Figure 3, Dillin does meet this claim limitation because the slopping surfaces of the counterbore H form a stop surface for a shoulder or side of the end tab M in order to keep the end tab M within the channel.

Claim 12

The same response to the arguments of claim 9 apply to claim 12.

Claims 13 and 14

The same response to the arguments of claims 8 or 9 apply to claim 13 and 14.

Claim 15

The Applicant argues that "the body A of Dillin bag fastener does not have a base with transversely extending slots through which a strap is woven". The Examiner fails to be persuaded by this argument. The claim recites that "said buckle being attached to said strap by weaving said strap into and out of the channel through the slots." The claim

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does not require that the weaving of the strap is being made by a particular end by itself, instead it requires weaving of the strap into and out of the channel through the attachment slots. Dillin does meet the claim limitations because the end of the strap located at B is weaved through slot B and tied onto itself and the other end of the strap is weaved through the slot D and retained to the buckle by the bight N and the interaction of the counterbore H with the end tab M.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Ruth C. Rodriguez

Patent Examiner

Conferees:

Judy Swann 

Dan Stodola 


ROBERT J. SANDY
PRIMARY EXAMINER